

**d.) Remarks.**

Applicant has canceled claims 30-45, amended claims 1 and 46, and added new claims 60-75, all to more clearly define the invention. No new matter is presented with these amendments, which are supported in the specification and also the original claims. For example, specific support for these amendments can be found in the specification at page 11, line 24, and page 13, lines 3-5 (“patient-based”), and claim 59, and also at page 21, lines 1-6 (“... security may be critical to inputting, viewing and transmitting medical records.”) and line 20 (“Where secure input and access systems and integrated records ...”). New claim 60 is supported in the specification at page 21, line 3-5 (“Preferably, the records as well as the means for collecting, inputting and transmitting medical records are encrypted”). New claims 61, 62, 66 and 67 are supported in the specification at page 4, lines 17-18, and page 20, lines 16-20, claim 46 and Figure 8 (“computerized” and “rules-based”). New claims 63 and 68 are supported in the specification at page 18, lines 6-12, and Figures 2 and 8 (“transmission” and “level of accuracy and completeness”). New claims 64 and 69 are supported in the specification at page 17, line 17, and page 20, lines 28-29 (“be relied upon”). New claim 65 is supported in original and amended claim 1. New claims 70-75 are supported in original claims 8-11 and 18-19.

Applicant also appreciates the examiner’s rejoinder of claims 46-59 in Group I. The remaining Group II claims, claims 30-45 have been canceled and, thus, claims 1-29 and 46-75 are presently pending. No fees are due for these extra claims in view of applicant’s cancellation of claims 30-45.

**Remarks Regarding Claim Objections**

Applicant appreciates the examiner’s attention to the incorrect claim numbering. The examiner’s correction of the first claim 12 to claim 11 is incorporated above.

**Remarks Regarding 35 U.S.C. § 103(b)**

A. Claims 1-3, 5-11, 16, 17, 46, 47, 51-53 and 57-59 stand rejected, under 35 U.S.C. § 103(b), as allegedly obvious over Ballantyne et al. (U.S. Patent No. 5,867,821; “Ballantyne”), [and] further in view of Shear (U.S. Patent No. 4,827,508). Applicant respectfully traverses this rejection and refutes all comments made in the Office Action.

Ballantyne relates to a hospital-based record management system. This is not applicant’s claimed invention, which, in direct contrast, relates to a patient-based medical record system. Nevertheless, to make this aspect of the instant invention more clear, applicant has amended claims 1 and 46 (the only independent claims subject to this rejection) to recite that the computer system contains “patient-based” electronic medical records. Thus, this rejection is overcome or moot. Nevertheless, applicant provides the following remarks regarding Ballantyne and Shear.

As recited above, Ballantyne is directed to a hospital-based medical record system. This is fundamentally distinct from applicant’s claimed invention. As is clear from Figure 1 of Ballantyne, a hospital maintains control over all of the patient’s medical records in a master library. As shown in Ballantyne Figure 1, the master library is within the “internal” portion of the “hospital boundary.” This is further supported in Ballantyne Figure 2, which again recites that their system is a hospital network. To highlight the fact that a patient is not in control of their own medical records, Ballantyne specifically states that a patient has limited access to their own clinical data. For example, at column 9, lines 32-40, Ballantyne recites that “*The interactive capability of the PCS allows the patient to order/select ... clinical data that the patient has been allowed to access ....*” (emphasis added). In other words, if the patient is allowed to access only certain clinical data, the patient cannot be in control of their own records. Thus, and in direct contrast to Ballantyne’s system, applicant’s claimed invention is a patient-based system for the management and control on one’s own medical records (*see* specification, page 11, lines 24-25).

In the Office Action (*see* Office Action, page 4), the examiner alleges that Ballantyne discloses a medical record collection that possesses the characteristic of non-repudiation (*see* Ballantyne column 12, lines 48-55). Applicant has reviewed this section of Ballantyne and respectfully disagrees. This section of Ballantyne is directed to user authentication by incorporation of a personalized signature pen. Use of the signature pen “*authenticates that: 1) this individual is an authorized user and 2) that the changes to the health record(s) can now be formally accepted by the nursing station server system*” (Ballantyne, column 12, lines 52-55). This is not non-repudiation according to applicant’s invention, which means that “*the accuracy and correctness of the information [in the medical record] is as good or better than exists at the source sites from which the records were obtained*” (specification, page 17, lines 15-17). In other words, Ballantyne’s simple authentication and/or adding to a medical record does not impart the characteristic of non-repudiation as defined by applicant.

In the Office Action (*see* Office Action, page 5), the examiner alleges that Ballantyne discloses that a medical record of a person is transmissible in whole or in part only to that person and others authorized by the person (*see* Ballantyne column 8, lines 43-65). Applicant has reviewed this section of Ballantyne and respectfully disagrees. This section of Ballantyne refers to use of a personal identification number or PIN for accessing a patient’s records. Further, this section demonstrates once again that the patient does not control their own records. As recited at column 8, lines 56-57, the patient has the right to request an access log for their personal record system. Having to request access clearly shows that that request can be declined, meaning again that the patient does not own or control their own medical records.

In the Office Action (*see* Office Action, page 7), the examiner alleges that Ballantyne and Shear discloses a medical record system that is primary for treatment of the patient (*see* Ballantyne column 12, lines 9-47). Applicant has reviewed this section of Ballantyne and respectfully disagrees. This section of Ballantyne refers to medical records being used by medical professional within the hospital in which the records were

created. Ballantyne does not suggest medical records that are primary for treatment as claimed by applicant.

In the Office Action (*see* Office Action, page 9), the examiner alleges that Ballantyne and Shear discloses that the medical records are owned by said subjects (*see* Ballantyne column 7, line 66, to column 8, line 9). Applicant has reviewed this section of Ballantyne and respectfully disagrees. This section of Ballantyne refers to a security process of identification and authentication of individuals requesting access to the health record database. Patients, at best, may only make certain requests for information within the database, which clearly means that the patient does not own or control their own records (*see also* Ballantyne column 9, lines 32-40).

Thus, for at least all of the reasons discussed here, the rejection of claims 1-3, 5-11, 16, 17, 46, 47, 51-53 and 57-59, under 35 U.S.C. § 103(b), is overcome or moot, and applicant respectfully requests that it be withdrawn.

**B.** Claims 20-22 and 26-29 stand rejected, under 35 U.S.C. § 103(b), as allegedly obvious over Baker further in view of Ballantyne. Applicant respectfully traverses this rejection and refutes all comments made in the Office Action.

Baker is alleged to disclose a broad-band computer-based networked system for individual control and management of electronic medical records. No specific quotes are noted by the examiner, who refers simply to pages 34-35 of Baker. Unfortunately, no page numbers can be found on the copy of Baker provided to applicant. Nevertheless, applicant has reviewed the entirety of Baker and respectfully disagrees.

Baker relates to a system referred to as PCASSO – Patient Centered Access to Secure Systems Online (*see* Baker, page 1, footnote). This is not applicant's claimed system whereby the patient manages and controls their own medical records. The PCASSO system is based on the health care information security policy of UCSD Healthcare, and states that it uses state-of-the-art computer security mechanisms as of 1999. Baker has nothing to do with individual control and management of patient-based medical records, in direct contrast to applicant's claimed invention.

In the Office Action (*see* Office Action, page 10), the examiner also alleges that Ballantyne discloses a medical record collection that possesses the characteristic of non-repudiation (*see* Ballantyne column 12, lines 48-55). Applicant has reviewed this section of Ballantyne and respectfully disagrees. This section of Ballantyne is directed to user authentication by incorporation of a personalized signature pen. This is not non-repudiation according to applicant's invention, which means that "*the accuracy and correctness of the information [in the medical record] is as good or better than exists at the source sites from which the records were obtained*" (specification, page 17, lines 15-17). Ballantyne's simple authentication and/or adding to a medical record does not impart applicant's characteristic of non-repudiation.

Applicant also respectfully incorporates all remarks made here regarding Ballantyne.

Thus, for at least the reasons recited here, the rejection of claims 20-22 and 26-29, under 35 U.S.C. § 103(b), is overcome or moot, and applicant respectfully requests that it be withdrawn.

C. Claims 4, 12-15 and 48-50 stand rejected, under 35 U.S.C. § 103(b), as allegedly obvious over modified Ballantyne and Shear, and further in view of Baker. Applicant respectfully traverses this rejection and refutes all comments made in the Office Action.

Applicant respectfully incorporates all remarks made here regarding Ballantyne, Shear and the combination of both. The undersigned also respectfully notes that it is unclear what is intended by the examiner's comment that this rejection is based on a "modified" Ballantyne and Shear. No explanation is provided of what is meant by the term "modified." Applicant assumes here, and also throughout this Amendment, that all comments referring to a "modified" Ballantyne and Shear mean that the rejection is based on the combination of Ballantyne and Shear. If another meaning is intended, applicant respectfully requests a written explanation and that a new Office Action be issued. Nevertheless, the combination of Ballantyne and Shear does not suggest applicant's claimed invention. The addition of Baker does not provide further support.

As discussed here, Baker relates to a system for creating secure access to a database. Baker has nothing to do with an individually owned and controlled medical record database and is not combinable with Ballantyne and Shear for this purpose.

Thus, for at least the reasons recited here, the rejection of claims 4, 12-15 and 48-50, under 35 U.S.C. § 103(b), is overcome or moot, and applicant respectfully requests that it be withdrawn.

**D.** Claims 18, 19 and 54-56 stand rejected, under 35 U.S.C. § 103(b), as allegedly obvious over modified Ballantyne and Shear, and further in view of Arpeggio. Applicant respectfully traverses this rejection and refutes all comments made in the Office Action.

Applicant respectfully incorporates remarks made here regarding Ballantyne and Shear. The combination of Ballantyne and Shear do not suggest applicant's claimed invention. The addition of Arpeggio does not provide further support.

Arpeggio relates to the checking of database integrity. In other words, it relates to the checking of data such as dates, times, record numbers, zip codes and other ancillary information entered into a computer database. Although this checking function may be a part of applicant's database, this is not applicant's vetting process as set forth in claims 18 and 19, or applicant's characteristic of non-repudiation, as set forth in claims 54-56.

Vetting, according to the claimed invention, is a process whereby a patient's medical records are subject to review and appraisal by clinically trained experts or record-experienced experts (*see* specification page 20, lines 19-24). Medical records that have been so reviewed are considered to be vetted. This is not suggested by the integrity checking of Arpeggio.

Further, non-repudiation, according to the claimed invention, is a process whereby the accuracy and correctness of the information contained within the medical records is as good or better than exists at the source sites from which the records were obtained (*see* specification page 17, lines 14-17). Integrity checking pursuant to Arpeggio suggests no such characteristic or process of obtaining such a characteristic.

Thus, the rejection of claims 18, 19 and 54-56, under 35 U.S.C. § 103(b), is overcome or moot, and applicant respectfully requests that it be withdrawn.

E. Claims 23-25 stand rejected, under 35 U.S.C. § 103(b), as allegedly obvious over modified Baker and Ballantyne, and further in view of Arpeggio. Applicant respectfully traverses this rejection and refutes all comments made in the Office Action.

Applicant respectfully incorporates remarks made here regarding Baker, Ballantyne and the combination of both. The undersigned also respectfully notes that it is unclear what is intended by the examiner's comment that this rejection is based on a "modified" Baker and Ballantyne. No explanation is provided of what is meant by the term modified. Applicant assumes here, and also throughout this Amendment, that all comments referring to a "modified" Baker and Ballantyne mean that the rejection is based on the combination of Baker and Ballantyne. If another meaning is intended, applicant respectfully requests a written explanation and that a new Office Action be issued. Nevertheless, the combination of Baker and Ballantyne does not suggest applicant's claimed invention. The addition of Arpeggio does not provide further support.

Arpeggio relates to the checking of database integrity. In other words, the checking of data such as dates, times, record numbers, zip codes and other ancillary information entered into a computer database. Although this checking function may be a part of applicant's database, this is not applicant's vetting process as set forth in claims 23-25.

Vetting, according to the claimed invention, is a process whereby a patient's medical records are subject to review and appraisal by clinically trained experts or record-experienced experts (*see* specification page 20, lines 19-21). Medical records that have been so reviewed and considered to be vetted. This is not suggested by the integrity checking of Arpeggio.

Thus, for at least the reasons recited here, the rejection of claims 23-25, under 35 U.S.C. § 103(b), is overcome or moot, and applicant respectfully requests that it be withdrawn.

**Conclusion**

The application including pending claims 1-29 and 46-75 is believed to be in condition for allowance and the prompt issuance of a Notice of Allowance is respectfully requested. Should the examiner not allow this application outright, applicant respectfully requests an interview. To schedule that interview, please contact the undersigned attorney. His complete contact information is provided below.

If there are any fees due with the filing of this Amendment, including any fees for an extension of time, additional claims or other fee, applicant respectfully requests that all such fees be charged to **Deposit Account No. 50-1682, referencing Attorney Docket No. 144009.00100.**

Respectfully submitted  
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